UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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MILTON THOMPSON,

                    Plaintiff,

                                  No. 9:08-CV-0037
      v.   (FJS/DEP)

DARWIN LACLAIR, Superintendent,
A. MCKEE, Correctional Officer and
N. IRWIN, Lieutenant,

                    Defendants.

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APPEARANCES: OF COUNSEL:

FOR PLAINTIFF:

MILTON THOMPSON, *Pro Se*
97-A-1874
Franklin Correctional Facility
P.O. Box 10
Malone, NY   12953

FOR DEFENDANTS:

HON. ANDREW M. CUOMO   AARON M. BALDWIN, ESQ.
Attorney General of   Assistant Attorney General
the State of New York
The Capitol
Albany, NY   12224

FREDERICK J. SCULLIN, JR., S.J.:

ORDER

      After carefully considering the entire file in this matter, including Magistrate

Judge Peebles' January 30, 2009 Report, Recommendation and Order, to which the parties have not filed any objections, the Court hereby

ORDERS that Magistrate Judge Peebles' January 30, 2009 Report, Recommendation and Order is **ADOPTED** in its entirety for the reasons stated therein; and the Court further

ORDERS that Plaintiff's cross-motion for leave to amend his complaint as proposed is **DENIED** as futile; and the Court further
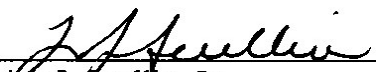
ORDERS that, if Plaintiff wishes to proceed with this action, he must file an amended complaint within **thirty (30) days** of the filing date of this Order; and the Court further

ORDERS that, if Plaintiff does not file an amended complaint within the required time frame, the Clerk of the Court shall enter judgment dismissing this action without further Order of this Court for the reasons set forth in Magistrate Judge Peebles' Report, Recommendation and Order; and the Court further

ORDERS that, if Plaintiff files an amended complaint within the required time frame, Defendants shall file a response to the amended complaint in compliance with the Federal Rules of Civil Procedure and this Court's Local Rules.

IT IS SO ORDERED.

DATED: August 25, 2009
          Syracuse, New York

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Frederick J. Scullin, Jr.
Senior United States District Court Judge